



Case Report

1	Case Number	0134/10
2	Advertiser	Chrysler Australia Pty Ltd
3	Product	Vehicles
4	Type of Advertisement / media	TV
5	Date of Determination	14/04/2010
6	DETERMINATION	Dismissed

ISSUES RAISED

Motor vehicles Speeding

DESCRIPTION OF THE ADVERTISEMENT

The advertisement, a spoof of the classic chase from the Coyote/Roadrunner cartoon, portrays the 'roadrunner' coming along the road. The 'roadrunner' is revealed as a Jeep Patriot, Wrangler and Cherokee (the Jeeps) one by one in an illustrated fantasy desert setting. The Jeeps come to a standstill to avoid obstacles which allows viewers to see the price and special offers available for each Jeep.

THE COMPLAINT

A sample of comments which the complainant/s made regarding this advertisement included the following:

Wrongful portayal of safety.

THE ADVERTISER'S RESPONSE

Comments which the advertiser made in response to the complainant/s regarding this advertisement include the following:

1. The Advertisement

The Advertisement portrays a Jeep Patriot, Wrangler and Cherokee (the Jeeps) one by one in an illustrated fantasy desert setting. The Jeeps in question safely avoid obstacles and spend

the majority of time at a standstill allowing viewers to absorb the illustrated price point offers shown.

2. The Complaint

The Complaint alleges that the Jeep in the Advertisement is speeding on a cartoon like road. The Advertisement is a cartoon and there is no intention to give the impression of speed. Further, despite being a completely fictional, fantasy environment, the setting is totally devoid of other traffic and there are no people depicted at any time.

3. AANA Advertiser Code of Ethics (the AANA Code)

I note you request CAPL to respond to the Complaint with reference to Section 2 of the AANA Code and (to the extent that they are applicable) the AANA Code on Marketing Communications to Children, the AANA Food & Beverages Advertising & Marketing Communications Code and the Federal Chamber of Automotive Industries Code of Practice relating to Advertising for Motor Vehicles, which are incorporated by reference into the AANA Code. This section deals with the AANA Codes specifically while issues relating to the FCAI Code are dealt with at more length in Part 4 below.

CAPL does not believe the Advertisement breaches any part of Section 2 of the AANA Code. In particular, it is CAPL's view that, having regard to the comments made in Part 2 above, the Advertisement:

- (a) does not discriminate against or vilify any person or section of the community (section 2.1);*
- (b) does not portray violence (section 2.2);*
- (c) does not contain reference to or depiction of sex, sexuality or nudity (section 2.3);*
- (d) is not directed at children 14 years or younger and is not for goods or service facilities targeted towards children (section 2.4);*
- (e) does not contain strong or obscene language (section 2.5);*
- (f) section 2.6 is not one which is applicable to the Advertisement;*
- (g) does not breach the FCAI Code (section 2.7), (section 2 of this letter further expands on this point below); and*
- (h) is not for food or beverage products (section 2.8).*

4. The FCAI Code.

This section addresses the FCAI Code. It is noted that the Complaint does not allege any breaches of the FCAI Code.

CAPL does not believe the Advertisement breaches any part of clause 2(a) to (e) of the FCAI Code as the Advertisement does not depict:

- (a) any unsafe driving that would breach any Australian law. The FCAI Code refers to examples such as excessive speed, sudden, unnecessary changes in direction, unnecessarily setting motor vehicles on a collision course.*

CAPL does not believe the vehicle in the Advertisement is displaying unsafe driving in any way that would breach any Commonwealth, State or Territory law. The use of animation and the actions of the Jeep are a purely fictional representation and are not intended to be interpreted as anything other than fantasy. CAPL does not believe that the reasonable viewer would consider the Advertisement to depict anything other than a fantasy or fictional illustration of the vehicle.

The Federal Chamber of Automotive Industries provides guidelines to advertisers to accompany the FCAI Code. The guidelines state that:

FCAI acknowledges that advertisers may make legitimate use of fantasy, humour and self evident exaggeration in creative ways in advertising for motor vehicles.

(b) people driving at speeds in excess of the limit.

As outlined above, there is no intention to depict that the Jeep is travelling at speed. Again it is

noted that the Advertisement is an animation and makes use of fantasy and humour. Despite this, the Jeep does not give the impression of speed as it moves along the cartoon like road.

(c) any driving practices or other actions that would breach any Commonwealth law or the law of any State or Territory in the relevant jurisdiction. For example, use of hand held mobile phone, not wearing seatbelts.

There is no evidence that the Advertisement contains depiction of any practices that would breach any Commonwealth law or the law of any State or Territory in the relevant jurisdiction.

(d) any people driving whilst fatigued or under the influence of drugs or alcohol.

The Advertisement does not in any way display this.

(e) any environmental damage whatsoever.

There was no environmental damage depicted or caused by the creation of this Advertisement.

CAPL further confirms that:

(i) the Advertisement is an animation which makes use of fantasy, the depiction is absurd to the

extent that it could not possibly occur in real life. Despite this, the intention is not to depict the Jeeps themselves behaving in a manner that would not conform to the relevant road safety

regulations;

(ii) the Advertisement has been released nationally;

(iii) the Advertisement has been made available on the internet.

CAPL takes its responsibilities as an importer and distributor of motor vehicles seriously and this extends to CAPL's obligations under the AANA Code and the FCAI Code. When preparing advertisements including the Advertisement CAPL is conscious of the provisions of the AANA Code and the FCAI Code

CAPL believe that the Advertisement was, by means of the animation and cartoon figures, utilising fantasy and fun to represent the Jeep with no intention to undermine the provisions of the FCAI Code. As such, CAPL does not believe that the Advertisement breaches either the AANA Code or the FCAI Code and therefore requests that the Complaint be dismissed.

CAPL further confirms that:

(iv) the Advertisement has been released nationally;

(v) the Advertisement has not been made available on the internet.

As such, CAPL does not believe that the Advertisement breaches either the AANA Code or the FCAI Code and therefore requests that the Complaint be dismissed.

CAPL will endeavour to continue to produce advertisements consistent with the standards as set down by the AANA Code and the FCAI Code.

THE DETERMINATION

The Advertising Standards Board (Board) was required to determine whether the material before it was in breach of the Federal Chamber of Automotive Industries Advertising for Motor Vehicles Voluntary Code of Practice (the FCAI Code).

To come within the FCAI Code, the material being considered must be an advertisement. The FCAI Code defines an advertisement as follows:

"matter which is published or broadcast in all of Australia, or in a substantial section of Australia, for payment or other valuable consideration and which draws the attention of the public, or a segment of it, to a product, service, person, organisation or line of conduct in a manner calculated to promote or oppose directly or indirectly that product, service, person, organisation or line of conduct".

The Board decided that the material in question was published or broadcast in all of Australia or in a substantial section of Australia for payment or valuable consideration given that it was being broadcast on television in Australia.

The Board determined that the material draws the attention of the public or a segment of it to a product being a Jeep Patriot, Wrangler and Cherokee ("the Jeeps") in a manner calculated to promote those products. Having concluded that the material was an advertisement as defined by the FCAI Code, the Board then needed to determine whether that advertisement was for a "motor vehicle". "Motor vehicle" is defined in the FCAI Code as meaning:

"passenger vehicle; motorcycle; light commercial vehicle and off-road vehicle".

The Board determined that "the Jeeps" were Motor Vehicles as defined in the FCAI Code.

The Board determined that the material before it was an advertisement for a motor vehicle and therefore that the FCAI Code applied.

The Board then analysed specific sections of the FCAI Code and their application to the advertisement. The Board noted the complainant's concern that the advertisement was a wrongful portrayal of safety. The Board noted that this complaint did not clearly identify the particular part of the advertisement that was of concern.

The Board considered clause 2(a) of the FCAI Code. Clause 2(a) requires that: Advertisements for motor vehicles do not portray...unsafe driving, including reckless or

menacing driving that would breach any Commonwealth law or the law of any State or Territory in the relevant jurisdiction in which the advertisement is published or broadcast dealing with road safety or traffic regulation, if such driving were to occur on a road or road-related area, regardless of where the driving is depicted in the advertisement.'

The Board viewed the advertisement and noted that the advertisement is animated and that there are no depictions of actual vehicles. The Board also noted the clear reference to the well known Road Runner cartoon.

The Board considered that the advertisement suggests that the vehicles are travelling at speed - like Road Runner does. However the Board noted that much of the advertisement is suggestive only of the vehicles driving – much of the depiction is of a 'cloud' travelling along the road. The Board considered that, in the scenes where the vehicles are driving or the advertisement suggests they are driving, the vehicles stay on the road, there are no pedestrians evident, the vehicles did not leave the road and each vehicle stopped safely at all obstacles.

Although there is a suggestion that the vehicles are travelling at speed, there is no depiction of any actual vehicles.

The Board noted the Explanatory Notes to the Code provide that 'advertisers may make legitimate use of fantasy...in creative ways in advertising for motor vehicles. However such devices should not be used in any way to contradict, circumvent or undermine the provisions of the Code.

The Board considered that the advertisement did not depict unsafe driving as there were no images, other than animated images, of any vehicle and the references to speed were in the context of a cartoon character. In the Board's view the references to speed of the vehicles are a reference to the Roadrunner and the cartoon and are not a suggestion of unsafe driving as a result of excessive speed. The Board determined that the advertisement did not breach clause 2(a) of the FCAI Code.

The Board then considered clause 2(b) which provides that advertisements must not depict: 'people driving at speeds in excess of speed limits in the relevant jurisdiction in Australia in which the advertisement is published or broadcast.' The Board considered that although there is a suggestion of speed in the advertisement, there is no depiction of an actual vehicle being driven and there is nothing in the context of the advertisement to suggest that the animated vehicle is being driven at a speed that is in excess of any particular Australian speed limit.

The Board also considered clause 4 which provides that: 'advertisements may legitimately depict the capabilities and performance of an off-road vehicle travelling over loose or unsealed surfaces, or uneven terrain, not forming part of a road or road related area...'

The Board noted that one of the vehicles in the advertisement is depicted driving over rubble but that the rubble is on the road or road related area and the driving over the rubble is undertaken in a safe manner.

The Board considered that clauses 2(c), (d), (e) and 3 are not relevant to this advertisement.

On the above basis, the Board determined that the advertisement did not breach the FCAI Code on any grounds and dismissed the complaint.